



contract, (b) violation of certain provisions of chapter 541 of the Texas Insurance Code, (c) violation of certain provisions of chapter 542 of the Texas Insurance Code, (d) violations of the Texas Deceptive Trade Practices Act, and (e) breach of the common-law duty of good faith and fair dealing.

4. Plaintiff commenced this action upon its filing of its original state-court pleading, entitled Plaintiff's Original Petition. Plaintiff served that pleading and Citation upon Defendant on July 8, 2019. Defendant is therefore timely filing this Notice of Removal. 28 U.S.C. § 1446(b)(3).

#### **VENUE IS PROPER**

5. Pursuant to 28 U.S.C. § 1441(a), this action may be removed to this Court because it is the district and division embracing Harris County, Texas, the county in which the state court action is pending.

#### **BASIS FOR REMOVAL**

6. This is a civil action that falls under the Court's original jurisdiction pursuant to 28 U.S.C. § 1332(a) and is one that may be removed to this Court based on diversity of citizenship in accordance with 28 U.S.C. §§ 1441 and 1446.

##### **A. Complete Diversity of Citizenship Exists.**

7. Plaintiff is a Texas non-profit corporation. *See* Plaintiff's Articles of Incorporation, attached as part of **Exhibit 1**; *see also* Pl.'s Orig. Pet. ¶ 3 ("MECA is a Texas corporation doing business in Harris County, Texas.") Plaintiff also maintains its principal place of business in Houston, Texas. *See id.* (specifying that Plaintiff's initial office was in Houston, Texas); Policy, Common Policy Declarations,

attached as part of **Exhibit 1** (showing Plaintiff's address as 1900 Kane Street, Houston, Texas.

8. Philadelphia is a corporation organized and existing under the laws of the State of Pennsylvania. *See* Affidavit of Kevin B. Liney, attached as **Exhibit 2** (attesting to the facts that Defendant is incorporated in and maintains its principal place of business in Pennsylvania); *see also* Pl.'s Orig. Pet. ¶ 4 ("Defendant Philadelphia Indemnity Insurance Company is a foreign corporation doing business in Texas . . .").

9. Complete diversity of citizenship therefore exists between all plaintiffs and all defendants.

**B. The Amount in Controversy Exceeds \$75,000.**

10. Plaintiff's Original Petition alleges that Plaintiff "seeks monetary relief of more than \$100,000. . . ." Pl.'s Orig. Pet. ¶ 1, at 1. Moreover, on or about January 25, 2019, Plaintiff's counsel sent Defendant a "Texas Insurance Code 542A and Formal Demand" citing and attaching an estimate representing "actual damages in the amount of over \$261,523.21." A true and correct copy of that estimate is attached as **Exhibit 3**

11. Plaintiff therefore seeks damages, exclusive of interest and attorney's fees, in excess of the jurisdictional minimum of \$75,000.

**C. Removal Is Appropriate Under the Court's Diversity Jurisdiction.**

12. In light of these facts, the state court claim may be removed to this Court because: (a) this action is a civil action pending within the jurisdiction of the

United States District Court for the Southern District of Texas; (b) none “of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought”, 28 U.S.C. § 1441(b)(2); and (c) the amount in controversy exceeds \$75,000, exclusive of interests and costs.

**FILING OF REMOVAL PAPERS**

13. Pursuant to 28 U.S.C. § 1446(d), Defendant is providing written notice of the filing of this Notice of Removal to all other counsel of record. Further, Philadelphia is filing a copy of this Notice of Removal with the Clerk of the 333rd Judicial District Court of Harris County, Texas, where Plaintiff commenced this action.

14. Defendant is filing the following items concurrently with this Notice of Removal, or attaching them to this Notice of Removal as required by Southern District of Texas Local Rule 81:

- (a) A completed JS-44 Civil Cover Sheet (**Exhibit 4**);
- (b) All executed process in the case (**Exhibit 5**);
- (c) Pleadings asserting causes of action (**Exhibit 6**);
- (d) Any orders signed by the state judge (**none**);
- (e) The docket sheet in the state court action (**Exhibit 7**);
- (f) An index of matters being filed; and
- (g) A list of all counsel of record, including addresses, telephone numbers and parties represented. (**Exhibit 8**).

**CONCLUSION**

Defendant Philadelphia Indemnity Insurance Company gives notice to the Court of its removal of the above-captioned action from the 333rd Judicial District Court of Harris County, Texas, and requests that further proceedings be conducted in the United States District Court for the Southern District of Texas, Houston Division, as provided by law.

Dated: July 15, 2019

Respectfully submitted,

/s/ William R. Pilat

William R. Pilat

Texas Bar No. 00788205

S.D. Tex. Admission No. 18655

MAYER LLP

4400 Post Oak Parkway, Suite 2850

Houston, Texas 77027

Telephone: 713-487-2000

Facsimile: 713-487-2019

Email: wpilat@mayerllp.com

**ATTORNEY-IN-CHARGE FOR DEFENDANT  
PHILADELPHIA INDEMNITY INSURANCE  
COMPANY**

**Of Counsel:**

Allison M. Hooker

Texas Bar No. 24046103

S.D. Tex. Admission No. 578224

MAYER LLP

4400 Post Oak Parkway, Suite 2850

Houston, Texas 77027

Telephone: 713-487-2000

Facsimile: 713-487-2019

Email: ahooker@mayerllp.com

**CERTIFICATE OF SERVICE**

I certify that on July 15, 2019, a true and correct copy of the foregoing pleading was forwarded to all other counsel of record, as listed below, by emailing the same to such attorney(s) and by mailing it by certified mail, return receipt requested:

Jason M. Klein  
KEARNEY, MCWILLIAMS & DAVIS  
410 Pierce Street, Suite 241  
Houston, Texas 77002

/s/ William R. Pilat  
William R. Pilat